

## **REMARKS**

The present Amendment is in response to the Examiner's Final Office Action mailed August 9, 2007. Claims 7, 14, and 15 are amended, claims 1-6 are cancelled, and new claims 20-24 are added. Claims 7-24 are now pending in view of the above amendments.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicants' remarks are presented in the order in which the corresponding issues were raised in the Office Action.

### **I. GENERAL CONSIDERATIONS**

Applicants respectfully note that the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the patentable distinctions between any cited references and the invention, example embodiments of which are set forth in the claims of this application. Rather, and in consideration of the fact that various factors make it impractical to enumerate all the patentable distinctions between the invention and the cited art, as well as the fact that the Applicants have broad discretion in terms of the identification and consideration of the base(s) upon which the claims distinguish over the cited references, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration by the Applicants, in this case or any other, of: additional or alternative distinctions between the invention and the cited references; and/or, the merits of additional or alternative arguments.

With specific reference now to the claim amendments, Applicants note that while claims 7, 14, and 15 have been amended herein, such amendments have been made in the interest of expediting the allowance of this case. Notwithstanding, Applicants, may, on further consideration, determine that claims of broader scope than those now presented are supported. Accordingly, Applicants hereby reserve the right to file one or more continuing applications with claims broader in scope than the claims now presented.

Consistent with the points set forth above, Applicants submit that neither the claim amendments set forth herein, nor any other claim amendments or statements advanced by the

Applicants in this or any related case, constitute or should be construed as, an implicit or explicit surrender or disclaimer of claim scope with respect to the cited, or any other, references.

## **II. REJECTION UNDER 35 U.S.C. § 112, FIRST PARAGRAPH**

The Examiner rejected claim 15 under 35 U.S.C. § 112, first paragraph, on the grounds that it contains "subject matter which was not described in the specification in such a way as to how 'arm is adapted to apply pressure between said cap and said header' perform the function of the invention." *See Office Action*, p. 2. Applicants respectfully traverses the rejection in view of the amendment to claim 15.

In support of the amendment, the Examiner's attention is respectfully directed to paragraph [038] of the specification, which states that "arm 320 cooperates with an actuator 340. This actuator 340 moves arm 320 relative to header 204. Consequently, actuator 340 can pivot and move cap 204 in the x-direction, y-direction, and/or z-direction so that cap 204 mounts to header 204. Various devices can perform the function of actuator 340." This passage is merely cited as one exemplary embodiment and is not intended to limit the scope of claim 15 in any way.

## **III. PRIOR ART REJECTIONS**

### **A. Rejection Under 35 U.S.C. §102(b)**

The Examiner rejected claims 1-3, 5-7, 9, 11-14, 16, and 17 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,666,450 to *Fujimura et al.* ("*Fujimura*"). Because *Fujimura* does not teach or suggest each and every element of the rejected claims, Applicants respectfully traverse this rejection in view of the following remarks.

Claims 1-3, 5, and 6 have been canceled by this amendment. Accordingly the rejection of these claims is moot and should be withdrawn.

Claim 7, as amended, recites a method comprising, among other things, "a step for viewing, through said lens, a displacement of a first optical axis of said lens relative to a second optical axis of said photonic device." Support for this amendment can be found, for example, at paragraph [050] and in Figure 8 of Applicants' original disclosure.

In contrast, the Examiner has not shown that *Fujimura* teaches or suggests the aforementioned limitation. The Examiner asserted that semiconductor laser chip (1) and spherical lens (6) of *Fujimura* correspond to the claimed "photonic device" and "lens,"

respectively. However, *Fujimura* states, without further elaboration, that “each axis of the semiconductor laser chip (1), the photodiode (2) and the spherical lens (6) has already been aligned at the time of producing the device.” See col. 2, lines 27-30 (emphasis added). Thus, *Fujimura* does not describe and is in no way concerned with “viewing, through said lens a displacement of [laser chip (1)] relative to [lens (6)],” as claimed. *Fujimura* is instead directed to alignment of an optical device group—including laser chip (1), photodiode (2), and lens (6)—with an optical fiber (9). See col. 2, lines 29-35.

Claim 14, as amended, recites, among other things, “a capture assembly adapted to hold said header having said photonic device, said capture assembly being movable relative to said cap having a lens.” For these limitations, the Examiner relied on the cap (5) and header (3) depicted in Figure 2 of *Fujimura*. However, because the cap (5) is attached to the header (3), as shown in the figure, one is not moveable relative to the other.

In rejecting the aforementioned limitation of claim 14, the Examiner referenced column 18, lines 43-51, of *Fujimara* (see *Office Action*, pp. 4 and 7), which states the following:

This is an example of the present invention applicable for the mounting of the semiconductor laser. In the above method, the supporters (122) and (123) are moved to the left, but alternatively it is allowable that the supporters (122) and (123) are at rest, and the body supporting the semiconductor laser module (109) is moved to right, which strictly corresponds with the location shown by FIG. 17. The displacement is  $(-X_0 - \Delta X_0 + P_0, -Y_0 - \Delta Y_0 + Q_0)$ .

Although header (3) and cap (5) are depicted in Figure 17, which this passage describes, there is no discussion of one being moveable relative to the other. Instead, this passage describes movement of supporters (122) and (123) relative to a body supporting the laser module in which header (3) and cap (5) are both contained. Therefore, should the Examiner continue to maintain the same grounds of rejection, Applicants respectfully request a more detailed explanation of the relevance of this passage to claim 14.

#### **B. Rejection Under 35 U.S.C. § 103**

The Examiner rejected claims 4 and 8 under 35 U.S.C. § 103 as being unpatentable over *Fujimara*; rejected claims 10 and 19 as being unpatentable over *Fujimara* in view of U.S. Patent No. 5,621,831 to Staver et al. (“*Staver*”); and rejected claim 18 as being unpatentable over *Fujimara* in view of Examiner’s Official Notice. Applicants respectfully traverse each rejection.

Inasmuch as claim 4 has been canceled herein, the rejection is moot and should be withdrawn.

The rejections of claims 8, 10, 18, and 19 rely on the characterization of *Fujimara* advanced by the Examiner in connection with the rejection of claims 7 and 14. However, such rejections lack an adequate foundation, for at least the reasons outlined at section III.A above. Moreover, the Examiner has not established that either *Staver* or Examiner's Official Notice are adequate to overcome the deficiencies of *Fujimara* discussed above. Therefore, the rejection of claims 8, 10, 18, and 19, which depend from one of independent claims 7 and 14, should be withdrawn.

#### **IV. New Claims 20-24**

Applicants note new claims 20-24 have been added herein. Because each of these claims depends from claim 7, Applicants respectfully submit that each of these claims is allowable at least because claim 7 is allowable, as discussed in section III.A above.

### **CONCLUSION**

In view of the foregoing, Applicants believe the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 10<sup>th</sup> day of December, 2007.

Respectfully submitted,

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